

REMARKS

The Applicant wishes to thank the Examiner for his examination of the present application. Claims 29-34, 38-41, 66-69, 92 and 93 have been amended. No new matter has been added.

The Applicant notes that the preliminary amendment dated March 2, 2004, that included, in part, a submission of formal drawings and petition to accept color drawings, has not been acknowledged by the Patent and Trademark Office. Applicant respectfully requests such acknowledgement.

Claim Objections

Claims 66-69 stand objected to under 37 CFR 1.75(c) as being in improper format because a multiple dependent claim should refer to the claims in the alternative only. Accordingly, claims 29-33, 38-41 and 66-69 have been amended to refer to the claims in the alternative.

35 U.S.C. §102

Claims 1-36, and 38-96 stand rejected under 35 U.S.C. 102(b) as being unpatentable over U.S. patent no. 6,558,421 (Fell et al., hereinafter Fell). Claim 1 is directed at an articular implant that includes, in part, a first surface and a second surface wherein the first surface opposes a first articular surface of a joint and the second surface opposes a second articular surface of a joint. A portion or at least a portion of one of the first or second surfaces has a three-dimensional shape that substantially matches the shape of one of the first and second articular surfaces *so as to have a plurality of convexities and a plurality of concavities*.

Nowhere does Fell disclose an implant surface that opposes and substantially matches the shape of an articular surface so as to have *both* a plurality of convexities and a plurality of concavities, as required by claim 1. More particularly, Fell discloses at Fig. 5: a meniscal device with a femoral surface having only a single concavity, but not a plurality of concavities; and a tibial surface that includes only a single convexity, but not a plurality of convexities (additionally see Fell at Fig. 5, col. 6, line 66 to col. 7, line 1;

and claim 10). The addition of an anterior and posterior cusp in the embodiment of Fig. 11 in Fell also fails to read on this limitation of claim 1, adding two convexities but not an additional concavity to the femoral surface, and adding two concavities but not an additional convexity to the tibial surface.

Since Fell fails to disclose or suggest a portion or at least a portion of one of the first or second surfaces that has a three-dimensional shape that substantially matches the shape of one of the first and second articular surfaces so as to have a plurality of convexities and a plurality of concavities, as required by claim 1, claim 1 is patentable over Fell. Claims 2-33 and 42-65 which depend from amended claim 1, are likewise patentable over Fell and are further allowable in view of the additional limitations set forth therein.

Amended independent claim 34 and dependent claims 35, 36, and 38-41; claims 67-60, which depend on claim 1 or 34; independent claim 70 and dependent claims 71-75; independent claim 76 and dependent claims 77 and 78, independent claims 79-91; amended independent claim 92; and amended independent claim 93 and dependent claims 94-96 each require that a portion or at least a portion of one of the first or second surfaces has a three-dimensional shape that substantially matches the shape of one of the first and second articular surfaces so as to have a plurality of convexities and a plurality of concavities, and thus are allowable for the same reasons as claim 1, and are further allowable in view of the additional limitations set forth therein.

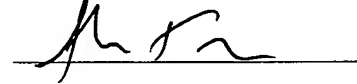
It is submitted that all pending claims are in condition for allowance.
Reconsideration of the claims and a notice of allowance are therefore requested.

Applicants believe that no extension of time is required; however, this conditional petition is being made to provide for the possibility that the applicant has inadvertently overlooked the need for an extension of time. If any additional fees are required for the timely consideration of this application, please charge deposit account number 19-4972.

Appl. No. 10/681,749
Amendment dated March 9, 2007
Reply to office action dated January 9, 2007

The Examiner is requested to telephone the undersigned if any matters remain outstanding so that they may be resolved expeditiously.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Smolenski, Jr.', is written over a horizontal line.

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